

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. C-11-331 MMC

Plaintiff,

**ORDER DENYING DEFENDANT'S
APPLICATION FOR WRIT OF HABEAS
CORPUS AD TESTIFICANDUM OR AD
PROSEQUENDUM**

v.

PETE AGAPITO CHAVEZ,

Defendant.

Before the Court is defendant Pete Agapito Chavez's ("Chavez") "Ex Parte
Application for Issuance of Subpoena; Application for Writ Ad Testificandum; Application for
Costs; and Declaration in Support," filed January 3, 2016, by which application Chavez
seeks (1) a writ of habeas corpus ad testificandum or ad prosequendum in order that he
may attend the proceeding to be held before this Court on February 3, 2016, and (2) an
order "authoriz[ing]" the payment of "costs for service of the . . . writ and transportation of
Pete Chavez" to this Court for said proceeding.

1 The Court having read and considered Chavez's application,¹ the application is
2 hereby DENIED, for the reason that the February 3, 2016, proceeding is not an evidentiary
3 hearing or trial, and Chavez has not otherwise shown a need for his testimony. See 28
4 U.S.C. § 2241(c)(5) (providing "writ of habeas corpus shall not extend to a prisoner unless
5 . . . [i]t is necessary to bring him into court to testify or for trial").

6 **IT IS SO ORDERED.**

7 Dated: January 11, 2016


MAXINE M. CHESNEY
United States District Judge

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25 ¹The Court assumes, without deciding, that the application is properly made on an
26 ex parte basis. See Civil L.R. 7-10 (providing "party may file an ex parte motion . . . only if
27 a statute, Federal Rule, local rule, or Standing Order authorizes the filing of an ex parte
28 motion in the circumstances"); Criminal L.R. 2-1 (providing "provisions of the Civil Local
Rules of the Court shall apply to criminal actions and proceedings, except where they may
be inconsistent with these criminal local rules, the Federal Rules of Criminal Procedure or
provisions of law specifically applicable to criminal cases").